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ACLU OF RI POSITION: SUPPORT/AMEND

TESTIMONY ON 24-H 8155, RELATING TO PRACTICE IN PROBATE COURTS May 7, 2024

This bill addresses probate court practices for hearing name change petitions, and in doing so, establishes a standard for sealing name change petition requests if there is good cause to believe it otherwise might jeopardize the person's safety and authorizes the waiving of court fees for indigent petitioners. The ACLU of RI strongly supports these goals and joins in the testimony you will hear from others about why this bill's protections are so important.

However, we believe that two amendments should be made in order to ensure that the legislation does not inadvertently alter a person's long-standing right to change their name for non-fraudulent purposes.

The bill authorizes the court to grant a name change request "unless such change is inconsistent with the public interest." However, this open-ended and undefined "public interest" standard has never been the benchmark in Rhode Island for determining whether a name change petition should be granted. Instead, it has long been the case that "[u]nder the common law, individuals have the right to change their name as long as they do so with a nonfraudulent purpose." *Traugott v. Petit*, 122 R.I. 60, 63 (R.I. 1979). Because this proposed standard is much broader and would authorize denial of name changes for reasons unrelated to fraud, we are concerned it could limit the right that individuals now have to change their name for any number of reasons.

Second, and relatedly, while individuals have the opportunity to change their name through the formal probate court process, it has also long been the case that they have an independent common-law right to do so without going through that formality. We are concerned that this bill, by setting specific and detailed standards for obtaining a name change through the court, might be interpreted as abrogating the current common-law right that does not require court approval. It would be a significant loss for personal autonomy if enactment of this bill inadvertently eliminated that ability. We would therefore urge the inclusion of an amendment to this bill to make clear that it would not affect the common-law right to change one's name without court approval, as another statute being amended by the legislation, R.I.G.L. §15-5-17, explicitly does.

We note that amendments to address these concerns have been made to the Senate version of this bill, S-2667A, which has passed out of Senate committee. We urge the committee to follow the Senate's lead in that regard. Thank you for considering our views.